IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 12413 of 2005(C)

AGAINST THE ORDER DATED 01/02/05 IN IA 4353/2003. IN OPMV.861/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA

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PETITIONER:

MOHANAN T.G., S/O. GOPALAN,
THOMBRAKUDIYIL HOUSE, VENGOOR P.O., PERUMBAVOOR.

BY ADV. SRI.LEGY ABRAHAM
SRI.GIMMY P ANTONY

RESPONDENTS:

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1. THANKACHAN T.K.,
THATTARUKUDIYIL HOUSE, KUTHUKUZHI P.O.,
KOTHAMANGALAM.

2. VIJAYAN, S/O. KUMARAN,
PUTHENPURAKKAL HOUSE, PLAMUDY P.O., KOTTAPPADY,
KOTHAMANGALAM.

3. THE ORIENTAL INSURANCE CO. LTD.,
BRANCH OFFICE, P.B.NO.50, ELANJIKAL PLAZA,
KOTHAMANGALAM, REPRESENTED BY ITS MANAGER.

BY ADV. SRI.A.R.GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF IA 4353 OF 2003 IN OP(MV) NO.861 OF 1998 FILED BY THE PETITIONER BEFORE MACT, PERUMBAVOOR DT.30.12.03.

EXT.P2 : TRUE COPY OF IA 4354 OF 2003 IN OP(MV) NO.861 OF 1998 FILED BY THE PETITIONER BEFORE MACT, PERUMBAVOOR, DT.30.12.03.

EXT.P3 : TRUE COPY OF ORDER DT.1.2.05 IN IA 4353/03 IN OP(MV) NO.861/98 OF MACT, MUVATTUPUZHA.

EXT.P4 : TRUE COPY OF ORDER DT.1.2.05 IN IA 723 OF 2003 IN OP(MV) NO.861 OF 1998 OF MACT, MUVATTUPUZHA.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 12413 OF 2005

Dated this the 1st day of June, 2007

JUDGMENT

In this proceeding under Article 227 of the Constitution the petitioner who was the 2nd respondent in OP(MV) No.861 of 1998 on the file of the Muvattupuzha MACT, impugns Exts.P3 and P4 orders. Ext.P3 is an order by which the learned MACT dismissed an application, IA No.4353 of 2003 filed by the petitioner for setting aside the ex-parte award which had been passed against him. By Ext.P4 the learned MACT noticed the absence of the petitioner(the present petitioner) and allowed IA No.723 of 2003 filed by the respondent directing issuance of certificate under the Revenue Recovery Act for realisation of a sum of Rs.22,860/- which was ordered by the award.

2. Heard Sri.Legy Abraham, counsel for the petitioner and Sri.A.R. George, counsel for the 3rd respondent-Insurance company. Mr. Legy Abraham would submit that the correct name of the petitioner is T.G. Mohanan, where 'T' stands for his house name “Thombrakudiyil” and 'G' stands for his father's name 'Gopalan'. He further submitted that the petitioner belongs to Vengoor near Kizhakambalam while the person who has been served with notice by the MACT is one T.Mohanan who belongs to 'Mudukuzha', near Perumbavoor. In short, his argument is

that it was not the petitioner who received notice from MACT but somebody else. The version of Mr.Legy that the correct name of the petitioner is 'T.G. Mohanan' and that he belongs to Vengoor appears to be correct.

3. Under these circumstances, I quash Ext.P4 and permit the petitioner to appear before the MACT within three weeks of receiving copy of this judgment. The MACT will receive objections if any filed by the petitioner to IA No.723 of 2003 within two weeks of his entering appearance as directed above and pass fresh orders in IA No.723 of 2003 within another one month thereafter. As for Ext.P3, I notice that it is an order dismissing IA No.4353 of 2003 filed by the petitioner in his correct name and address. It is open to the petitioner to approach the MACT with appropriate application for restoration.

The Writ Petition is disposed of.

PIUS C. KURIAKOSE, JUDGE

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